

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ANTONIOLE CUBA,

Plaintiff,

v.

KRISTIN BURNETT, et al.,

Defendants.

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Case No. 6:18-cv-628-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**


Plaintiff Antoniole Cuba, proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. Defendants moved to dismiss on June 18, 2020. Docket No. 18. Plaintiff has not responded. On August 11, 2020, Judge Mitchell issued a Report and Recommendation recommending that the Court grant Defendant's motion to dismiss and dismiss this case with prejudice as to the refiling of another *in forma pauperis* complaint. Docket No. 20. At Plaintiff's request, Judge Mitchell twice extended the deadline for Plaintiff to object to the Report and Recommendation. Docket Nos. 22, 25. On December 9, 2020, Defendant filed a notice reasserting his original claims, but failing to address the Report. Docket No. 26.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire

record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Having conducted a de novo review of the record in this case and the Magistrate Judge's Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff's objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 20) as the opinion of the District Court. Further, the Court hereby **GRANTS** Defendants' motion to dismiss (Docket No. 18). Plaintiff's claims are **DISMISSED** for failure to state a claim upon which relief can be granted, with prejudice as to the filing of another *in forma pauperis* complaint raising these allegations in federal court, but without prejudice as to any claims for deprivation of property which Plaintiff may wish to pursue in state court or through the administrative processes of TDCJ-CID.

So **ORDERED** and **SIGNED** this **15th** day of **January, 2021**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE